

## **REMARKS**

The above amendments and these remarks are responsive to the Office action dated June 3, 2005. Claims 1-43 are pending in the application. Claims 42 and 43 are allowed. Claims 1-3, 9, 10, 11, 13, 16, 27-33, 36, 37, 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Bakker U.S. Patent number 4,915,664. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bakker in view of Chase U.S. Patent number 5,423,706. Claims 4-8, 14, 15, 17-26, 34, 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The status of claim 38 is unknown, as it was marked as rejected on the Office action summary, but was not discussed in the Examiner's remarks. Applicant thanks the Examiner for consideration of the application. Applicant traverses the rejections, but nevertheless amends the claims as shown above. In view of the amendments above, and the remarks below, applicants respectfully request(s) reconsideration of the application under 37 C.F.R. § 1.111 and allowance of the pending claims.

### **A. Claim Rejections Under 35 U.S.C. § 102**

#### **Claim 1**

Claims 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Bakker. Applicant traverses the rejections, but nevertheless amends the claims as shown above.

Bakker relates to a model toy glider. Figure 6 of Bakker as reproduced below shows that vertical through slot 31 receives therein a track assembly 33 mounting a slider 35 for fore and aft travel therein. The slider 35 includes a downwardly depending launcher hook 37. Col. 4: lines

61-64. Figure 3 of Bakker as reproduced below illustrates how the sling type launcher 41 is hooked on the hook 37 and is actuated to drive the slider 35 forward in the track 33.

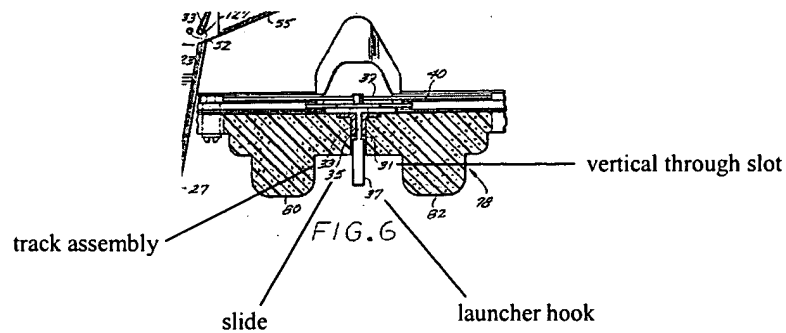


Figure 6 of Bakker with Annotation

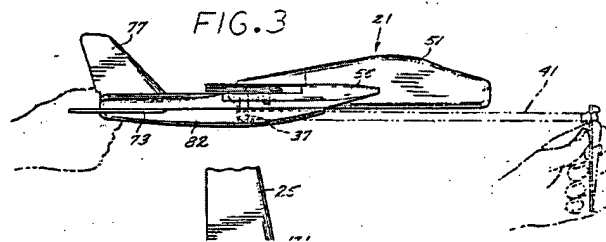


Figure 3 of Bakker

Unlike Bakker, amended claim 1 recites that “the channel is substantially barrier free along an entire length of the channel to accommodate passage of the digit therein during launch of the body over the digit.” As shown by Figure 3 of the present application as reproduced below, there is no barrier within the channel along the length of the body.

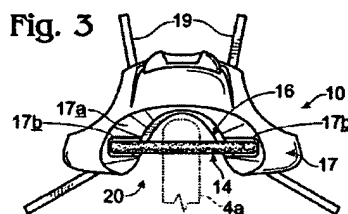


Figure 3 of the Present Application

The operation of flying toy apparatus of the present application is described with reference to Figure 6 from lines 8-11 on page 10 the specification:

The flying toy is launched forward and travels along the longitudinal axis 20a. As the flying toy apparatus 10 is being launched over the digit 4 of the user, the digit is allowed to pass through channel 120, as shown at positions 4b and 4c, thereby avoiding a full frontal collision between the digit and the body 12.

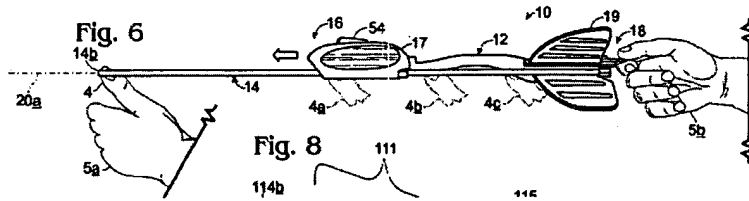


Figure 6 of the Present Application

In contrast, in Bakker, the launcher hook 37 is located in the middle of a channel. As shown by Fig. 3 of Bakker, when a user releases the glider, the glider may crash into the stick or hand of the user. Thus, Bakker fails to disclose this limitation of claim 1. Applicant respectfully requests that the rejection be withdrawn.

**Claims 2, 3, 9, 10, 11, 13, 16, 27-33 and 36**

Claims 2, 3, 9, 10, 11, 13, 16, 27-33 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Bakker. Claims 2, 3, 9, 10, 11, 13, 16, 27-33 and 36 are dependent on Claim 1, Applicant respectfully traverses the rejections for at least the reasons cited above.

Applicant respectfully requests the rejections be withdrawn.

**Claim 37**

Claim 37 is rejected under 35 U.S.C. 102(b) as being anticipated by Bakker. Applicant traverses the rejection, but nevertheless amends the claims as shown above.

For similar reasons argued for claim 1, Bakker does not include all of the limitations of claim 37. Thus, Applicant respectfully request that the rejection be withdrawn.

### **Claim 39-41**

Claims 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Bakker. Applicant traverses the rejections, but nevertheless amends the claims as shown above.

For similar reasons argued for claim 1, Bakker does not include all of the limitations of claim 37.

Further, claim 39 recites “an elastic launch member fixedly mounted to the body adjacent a trailing portion of the body . . . wherein the elastic launch member remains mounted to the body after launch.” In the contrary, in Bakker, the slingshot type launcher 41 is separated from the fuselage 21. Launcher 41 is only hooked on the launcher hook 37 when glider is to be launched and does not remain mounted to the body after launch. See col.: 5: lines 3-7. Therefore, Bakker does not include this limitation.

Thus, Bakker does not include all of the limitations of claim 39-41. Applicant respectfully requests that the rejections be withdrawn.

### **B. Claim Rejections Under 35 U.S.C. § 103**

#### **Claim 12**

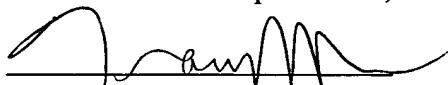
Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bakker in view of Chase. Claim 12 is dependent on claim 1. As argued for claim 1, Bakker does not disclose a flying toy apparatus having a channel that is “substantially barrier free along an entire length of the channel to accommodate passage of the digit therein during launch of the body over the digit.” Nor does Chase disclose this limitation. Thus, both Bakker and Chase fail to disclose all of the limitations of claim 12. Applicant respectfully requests that the rejection be withdrawn.



Applicant believes that this application is now in condition for allowance, in view of the above amendments and remarks. Accordingly, applicant respectfully requests that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.

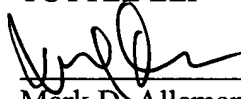
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Tracy Meeker

Respectfully submitted,

ALLEMAN HALL MCCOY RUSSELL &  
TUTTLE LLP



Mark D. Alleman

Registration No. 42,257

Customer No. 50488

Attorney/Agent for Applicant(s)/Assignee

806 S.W. Broadway, Suite 600

Portland, Oregon 97205

Telephone: (503) 459-4141

Facsimile: (503) 459-4142